

ORIGINAL

FORM FOR USE IN APPLICATIONS
FOR HABEAS CORPUS UNDER 28 U.S.C. Section 2254

WILLIAM HOLMES
Name

EE 238504
Prison Number

MEN'S STATE PRISON P.O. Box 396
HARDWICK, GA. 31034
Place of Confinement

United States District Court SOUTHERN District of SAMANNAH

Case No. CV 499-168
(To be supplied by Clerk of U. S. District Court)

WILLIAM HOLMES
(Full Name) (Include name under which you were convicted)

v.

WILLIAM BECKE-WARDEN
(Name of Warden, Superintendent, Jailor, or authorized person having custody of petitioner)

and

THE ATTORNEY GENERAL OF THE STATE OF THORBERT BAKER
_____, ADDITIONAL RESPONDENT.

(If petitioner is attacking a judgment which imposed a sentence to be served in the future, petitioner must fill in the name of the state where the judgment was entered. If petitioner has a sentence to be served in the future under a federal judgment which he wishes to attack, he should file a motion under 28 U.S.C. Section 2255, in the federal court which entered the judgment.)

PETITION FOR WRIT OF HABEAS CORPUS BY A PERSON IN
STATE CUSTODY

INSTRUCTIONS—READ CAREFULLY

- (1) This petition must be legibly handwritten or typewritten, and signed by the petitioner under penalty of perjury. Any false statement of a material fact may serve as the basis for prosecution and conviction for perjury. All questions must

U. S. DISTRICT COURT
Southern District of Ga.
Filed in Office
11:38 AM.

4/1/99
R. Ridd
Deputy Clerk

3/15/99
NUNG PRO TUNG DATE

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be answered concisely in the proper space on the form.

- (2) Additional pages are not permitted except with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
- (3) Upon receipt of a fee of \$5 your petition will be filed if it is in proper order.
- (4) If you do not have the necessary filing fee, you may request permission to proceed in forma pauperis, in which event you must execute the declaration on the last page, setting forth information establishing your inability to prepay the fees and costs or give security therefor. If you wish to proceed in forma pauperis, you must have an authorized officer at the penal institution complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution. If your prison account exceeds \$_____ you must pay the filing fee as required by the rule of the district court.
- (5) Only judgments entered by one court may be challenged in a single petition. If you seek to challenge judgments entered by different courts either in the same state or in different states, you must file separate petitions as to each court.
- (6) Your attention is directed to the fact that you must include all grounds for relief and all facts supporting such grounds for relief in the petition you file seeking relief from any judgment of conviction.
- (7) When the petition is fully completed, the original and two copies must be mailed to the Clerk of the United States District Court whose address is Post Office Box 1130, Augusta, Georgia, 30903.
- (8) Petitions which do not conform to these instructions will be returned with a notation as to the deficiency.

PETITION

1. Name and location of court which entered the judgment of LIBERTY
conviction under attack COUNTY SUPERIOR COURT - ATLANTA
JUDICIAL CIRCUIT

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2. Date of judgment of conviction FEBRUARY 10, 1995
3. Length of sentence LIFE IMPRISONMENT
4. Nature of offense involved (all counts) GEORGIA CONTROL
SUBSTANCES ACT.
5. What was your plea? (Check one)
 (a) Not guilty (☒)
 (b) Guilty ()
 (c) Nolo contendere ()
 If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

6. Kind of trial: (Check one)
 (a) Jury (☒)
 (b) Judge only ()
7. Did you testify at the trial? Yes () No ()
8. Did you appeal from the judgment of conviction? Yes () No ()
9. If you did appeal, answer the following:
 (a) Name of court BALCON COUNTY SUPERIOR COURT - CASE # 96CV33213
 (b) Result AFFIRMED ON HABEAS CORPUS
 (c) Date of result JAN. 8, 1997
10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal? Yes () No ()
11. If your answer to 10 was "yes", give the following information:
 (a)(1) Name of court _____
 (2) Nature of proceeding SEE ABOVE
 (3) Grounds raised _____

SAMESEE ATTACHED PETITION

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- (4) Did you receive an evidentiary hearing on your petition, application or motion? Yes (☒) No ()
- (5) Result _____
- (6) Date of result _____
- (b) As to any second petition, application or motion give the same information:
- (1) Name of court SEE ABOVE
- (2) Nature of proceeding _____
- (3) Grounds raised _____
- _____ SAME _____
- _____
- (4) Did you receive an evidentiary hearing on your petition, application or motion? Yes () No ()
- (5) Result _____
- (6) Date of result _____
- (c) As to any third petition, application or motion, give the same information:
- (1) Name of court _____
- (2) Nature of proceeding _____
- (3) Grounds raised _____
- _____ SAME _____
- _____
- (4) Did you receive an evidentiary hearing on your petition, application or motion? Yes () No ()
- (5) Result _____
- (6) Date of result _____
- (d) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion:
- (1) First petition, etc. Yes (☒) No ()
- (2) Second petition, etc. Yes () No ()
- (3) Third petition, etc. Yes () No ()
- (e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not: _____

AT PRESENT

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12. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted all your state court remedies with respect to them. However, you should raise in this petition all available grounds (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

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A. Ground one: _____

Supporting FACTS (tell your story briefly without
citing cases or law): _____

1 SEE ELABORATE PETITION

B. Ground two: _____

Supporting FACTS (tell your story briefly without
citing cases or law): _____

X

C. Ground three: _____

Supporting FACTS (tell your story briefly without
citing cases or law): _____

X

D. Ground four: _____

Supporting FACTS (tell your story briefly without
citing cases or law): _____

SEE PETITION

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13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal, state briefly what grounds were not so presented, and give your reasons for not presenting them:

1
LISTED ON PETITION

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack? Yes () No ()
15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

- (a) At preliminary hearing CHARLES P. ROSE, JR.
P.O. Box 469 HINESVILLE, GA. 31319
- (b) At arraignment and plea SAME
- (c) At trial SAME
- (d) At sentencing SAME
- (e) On appeal SAME
- (f) In any post-conviction proceeding _____
- (g) On appeal from any adverse ruling in a post-conviction proceeding SELF

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?
 Yes (☒) No ()

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack? Yes () No (☒)

- (a) If so, give name and location of court which imposed sentence to be served in the future:

N/A

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

William Holmes,
PETITIONER,

vs.

William Boone, et al.

HABEAS CORPUS
28 U.S.C. § 2254

----- RESPONDENT. -----

PETITION

THE PETITIONER WILLIAM HOLMES APPEAL FOR HABEAS CORPUS FOR RELIEF FROM A LIFE SENTENCE IMPOSED ON FEBRUARY 10, 1995, AFTER A JURY TRIAL IN THE SUPERIOR COURT OF LIBERTY COUNTY.

- ① PETITIONER WAS DENIED A RIGHT TO A SPEEDY TRIAL.
- ② THE PETITIONER WAS NOT PROPERLY INFORMED OF ACCUSATIONS AGAINST HIM.
- ③ THE PETITIONER WAS NOT INFORMED OF WITNESSES WHO WOULD HAD TESTIFIED AGAINST HIM. T-23
- ④ THE CONVICTION OF PETITIONER FOR A SENTENCE TO LIFE IMPRISONMENT WAS NOT SET OUT IN THE INDICTMENT AS REQUIRED AND PROVIDED UNDER § 17-10-2, WHICH PROVIDES ONLY SUCH EVIDENCE IN AGGRAVATION AS THE STATE HAS MADE KNOWN TO THE DEFENDANT PRIOR TO TRIAL. 16-13-30-1.
- ⑤ THE PROSECUTOR BROUGHT PETITIONER CHARACTER INTO EVIDENCE DESPITE HIS ATTORNEY COUNSELED PETITIONER NOT TO TESTIFY.
- ⑥ PETITIONER INEFFECTIVE ATTORNEY MADE NO OBJECTION TO DETECTIVE

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- (b) And give date and length of sentence to be served in the future: N/A
- (c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future? Yes () No ()

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on 2/17/99
(date)

William Holmes
Signature of Petitioner

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WOODARD SUBMITTING AND TESTIFYING PREJUDICE INFORMATION HE OBTAINED AFTER PETITIONER INDICTMENT HE ENTRAPPED, ENCOURAGED AND SOLICITED INFORMATION FROM PETITIONER ABOUT OTHER DRUG DEALERS THAT INCRIMINATED PETITIONER SO SEVERE HE WAS NOT ABLE TO RECEIVE A FAIR AND IMPARTIAL TRIAL. T-4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14.

(8) PETITIONER IS DIABETIC, WITH HEART, STOMACH AND OTHER DEBILITATING ILLNESSES WHERE FOR 7 DAYS OF CONFINEMENT IN JAIL HE WAS DENIED MEDICATION.

(9) THE PETITIONER WAS HOSPITALIZED FOR THE FORESAID MEDICAL NEGLIGENCES AND RELEASED 11/ ON THE DAY OF TRIAL. EXHIBIT "A"

(9) PETITIONER WAS RELEASED FROM THE HOSPITAL AND WITHIN HOURS WAS MADE TO GO TO TRIAL UNDER MEDICATION AND WAS UNABLE TO UNDERSTAND AND ASSIST HIS INEFFECTIVE ATTORNEY IN THE CHARGES AND TRIAL PROCEDURES. EXHIBIT "B".

(10) PETITIONER ATTORNEY WAS INEFFECTIVE AND DID NOT REQUEST CONTINUANCE OF THE TRIAL.

(11) THE INEFFECTIVE ATTORNEY DID NOT FILE MOTIONS TO SUPPRESS THE ILLEGAL OBTAINED EVIDENCE.

(12) THE INEFFECTIVE ATTORNEY SHOULD HAVE SOUGHT DISMISSAL OF THE CHARGES ESPECIALLY WHEN THE JUDGE WAS DOUBTFUL THE COURT HAD A CASE AND HE NEEDED HELP. T-53.

(13) PETITIONER COUNSEL WAS INEFFECTIVE IN FAILING TO CHALLENGE THE STATES' FAILURE TO CALL THE POLICE INFORMANT AS A WITNESS.

(14) PETITIONER COUNSEL FAILED TO FILE MOTION TO SUPPRESS THE INDICTMENT

(15) PETITIONER ATTORNEY FAILED TO REQUEST JURY INSTRUCTIONS REGARDING PETITIONER'S PRIVILEGE AGAINST SELF INCRIMINATION

(16) PETITIONER ATTORNEY DID NOT MAKE OBJECTIONS TO EVIDENCE THAT VIOLATED PETITIONER FOURTEENTH AND SIXTH AMENDMENTS AND LAWS OF THE STATE OF GEORGIA.

(17) PETITIONER ATTORNEY WAS INEFFECTIVE IN FAILURE TO MOVE FOR A DIRECT VERDICT.

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- (18) PETITIONER ATTORNEY FAILED TO OBJECT TO WITNESS INCORRECT AND INCONSISTENT TESTIMONIAL DESCRIPTION OF PETITIONER HOME.
- (19) PETITIONER ATTORNEY FAILED TO FILE PRETRIAL MOTIONS.
- (20) PETITIONER ATTORNEY WAS INEFFECTIVE AND PROCEEDED TO TRIAL RATHER THAN REQUESTED A CONTINUANCE AFTER ORAL MOTION OF SUPPRESSION WAS DENIED.
- (21) PETITIONER ATTORNEY WAS INEFFECTIVE TO ADVISE PETITIONER NOT TO TESTIFY AND ALLOWED PETITIONER CHARACTER TO BE BROUGHT INTO EVIDENCE.
- (22) PETITIONER ATTORNEY DID NOT PROPERLY PREPARE TO CHALLENGE CHARGES AGAINST PETITIONER AT TRIAL.
- (23) PETITIONER ATTORNEY DID NOT CHALLENGE THE ILLEGAL SEARCH OF PETITIONER HOME AND CAR BY ARRESTING OFFICERS WHO DID NOT HAVE A WARRANT AND HAD SUFFICIENT OPPORTUNITIES TO OBTAIN A WARRANT.

PETITIONER ATTORNEY INEFFECTIVENESS SEVERELY VIOLATED EVERY STANDARD OF STRICKLAND V. WASHINGTON, 466 U.S. 668, 104 S. CT 2052 80 L. ED. 2D 274 (1984) PROSECUTORS AND INVESTIGATORS OF THE ILLEGAL SEARCH VIOLATED STATE AND FEDERAL LAWS AGAINST SELF INCRIMINATION AND PETITIONER IS PREJUDICIALLY CONVICTED IN VIOLATIONS OF FUNDAMENTAL MISARRANGES OF JUSTICE. SCHUP V. DELO, 115, S. CT. 951, 130 L. ED. 2D 808 (1995).

THE ARRESTING INVESTIGATION OFFICERS AND THE JUDGE DID NOT FOLLOW AND VIOLATED EVERY PROCEDURE NECESSARY TO INSURE FUNDAMENTAL FAIRNESS AT PETITIONER TRIAL. LEAGUE 489 U.S. AT 312, 109 S. CT. AT 1076; CASTILLE V. PEEPLES, 489 U.S. 346, 351, 52, 109 S. CT. 1056 1060, 103 L. ED. 2D 380 (1989); MURRAY V. CARRIER, 477 U.S. 478, 488, 106 S. CT. 2639, 2645, 91 L. ED. 2D 397 (1986).

PETITIONER TRIAL COUNSEL FAILED TO ARGUE EFFECTIVELY AND PERSUASIVE FACTS AND ERRORS THAT BUT FOR THESE EGREGIOUS ERRORS, NO REASONABLE JURORS WOULD HAVE FOUND PETITIONER GUILTY.

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THE BRADY STANDARD STATE THAT THE PROSECUTION MUST DISCLOSE EVIDENCE THAT IS EXCULPATORY OR IMPEACHING SHOWING WITNESS LIED. WHEREIN, EXCULPATORY EVIDENCE IN THIS CASE IS MATERIAL AND "HAD THE PROSECUTOR DISCLOSE THE INFORMATION THE RESULT OF THE PROCEEDING WOULD HAVE BEEN DIFFERENTLY". BRADY V. MARYLAND, 393 U.S. 83 S.Ct. 1194, 10 L. Ed. 2d 215 (1963). SEE U.S. V. BAGLEY 473 U.S. 667, 682, 103 S.Ct. 3375, 3383, 89 L. Ed. 481 (1985). SENTENCE REVERSED BECAUSE PROSECUTION FAILED TO DISCLOSE IMPEACHING EVIDENCE TWO PROSECUTION WITNESSES WERE PAID TO LIE. Id.

WHEREFORE, PETITIONER PRAY THE COURT GRANT HIM IMMEDIATE AND EXPEDITIOUS DISCHARGE FROM ILLEGAL IMPRISONMENT.

RESPECTFULLY SUBMITTED,
THIS 12 DAY OF FEBRUARY, 1999

William Holmes
-WILLIAM HOLMES
William Holmes

WILLIAM HOLMES, #239504
MEN'S STATE PRISON
P.O. BOX 396
HARDWICK, GA. 31034

CERTIFICATE OF SERVICE

I do hereby certify that I this day serve the within and foregoing petition for habeas corpus by placing 3 copies thereof, postage prepaid, in the United States mail, properly addressed to:

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF SAVANNAH

SAVANNAH, GA.

This 17 day of FEBRUARY, 1999

RESPOND TO:

WILLIAM HOLMES, EF 238504
MEN'S STATE PRISON

P.O. Box 356
HARDWICK, GA. 31034

ADMISSION HISTORY AND PHYSICAL

On January 1, 1999, the following information was received from the [redacted] regarding the admission history and physical of [redacted].

The [redacted] has been [redacted] and [redacted] for [redacted] years. The [redacted] has been [redacted] and [redacted] for [redacted] years.

The [redacted] has been [redacted] and [redacted] for [redacted] years. The [redacted] has been [redacted] and [redacted] for [redacted] years.

The [redacted] has been [redacted] and [redacted] for [redacted] years. The [redacted] has been [redacted] and [redacted] for [redacted] years.

The [redacted] has been [redacted] and [redacted] for [redacted] years.

The [redacted] has been [redacted] and [redacted] for [redacted] years. The [redacted] has been [redacted] and [redacted] for [redacted] years.

The [redacted] has been [redacted] and [redacted] for [redacted] years. The [redacted] has been [redacted] and [redacted] for [redacted] years.

The [redacted] has been [redacted] and [redacted] for [redacted] years. The [redacted] has been [redacted] and [redacted] for [redacted] years.

The [redacted] has been [redacted] and [redacted] for [redacted] years. The [redacted] has been [redacted] and [redacted] for [redacted] years.

The [redacted] has been [redacted] and [redacted] for [redacted] years. The [redacted] has been [redacted] and [redacted] for [redacted] years.

The [redacted] has been [redacted] and [redacted] for [redacted] years. The [redacted] has been [redacted] and [redacted] for [redacted] years.

ADMISSION HISTORY AND PHYSICAL

The [redacted] has been [redacted] and [redacted] for [redacted] years.

The [redacted] has been [redacted] and [redacted] for [redacted] years.

The [redacted] has been [redacted] and [redacted] for [redacted] years.

EXHIBIT "A"

Medical Records 137074

Holmes, William Ann, Sr 9503900233 223

Admission, 10/01/98, 10

ADMISSION HISTORY AND PHYSICAL

Page 12 of 12

negative.

Chest is symmetric, no deformity or tenderness. Cardiac; PMI is not palpable. Breath sounds and bowel sounds are clear.

Abdomen; soft without tenderness, organomegaly, or abnormal peristalsis.

Extremities; neurovascular normal. No varicose veins, no calf tenderness. Reflexes are symmetric. There is no gross neurologic deficits.

The EKG shows normal sinus rhythm with no changes to suggest acute myocardial infarction. Admission lab work shows blood glucose of 555, with normal CBC of 16, potassium 4.1, BUN 9, creatinine 4.8, cholesterol 144.

ADMITTING DIAGNOSIS:

1. Chest pain; rule out acute M.I.
2. Hypertension.
3. Insulin dependent diabetes mellitus.
4. Cigar smoker.
5. History of distal bicus with 35% reflux.
6. History of bilateral leg varicose veins.
7. Drug allergies; none.

COPY, NOT AN ORIGINAL

Printed Report for:

EXHIBIT "B"

Printed: 11/17/98 10:04 AM

Page: 16 of 19

Chart Review Print

| Location | Name | Gender | DOB | Admission Date | Discharge Date | Age | Physician |
|----------|-------------------------|--------|--------|----------------|----------------|-----|--------------|
| 015 IP | Holmes, William A., Jr. | M | 137377 | 05/05/98 | 12/09/98 | 50 | Holmes, W.A. |

Discharge Summary (Physician)

Event Time: 11/12/98 9:00 AM

Location: Ambulatory

* * * End of Report * * *

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PHYSICIAN ED NOTE

Medical Record: 137373

Haines, William Noe, Jr 9503900133 229

PHYSICIAN ED NOTE

Page: 1 of 1

LABORATORY DATA: Hb 14.0, hematocrit 50.0, hemoglobin A1c 6.0, glucose 140 mg/dl, creatinine 1.0, differential 37% polys, 53% lymphs. Serum electrolytes: sodium 136, potassium 4, ionized 2.5, bicarbonate 26, glucose 98, BUN 10, creatinine 0.9, cholesterol 145, alkaline phosphatase 145, PT 11.5. Cardiac enzymes were obtained, CK 130, LDH 441, PTT 11.9.

DIAGNOSES:

1. Evaluation of chest pain.
2. Accelerated angina.
3. Insulin-dependent diabetes.
4. Hypertension.

PLAN: In the emergency room an IV was started. The patient received heparin 5,000 units as a bolus followed by 1,000 units per hour. He was started on a Nitroglycerin drip at 5 micrograms per minute. He was also given an aspirin 325 mg po. The patient also received regular insulin 10 units IV. Dr. Haines was contacted and the case discussed. This patient will be admitted to Archer hospital for further evaluation and care under his direction.

COPY, NOT AN ORIGINAL

PHYSICIAN ED NOTE

Page: 1 of 1

